

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

JAIME SIMMONS,

Plaintiff,

v.

**CIVIL ACTION NO. 2:04cv87
(Maxwell)**

**JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

ORDER

On November 3, 2005, the Court referred this Social Security action to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. § 636(b)(1)(B), Rule 72(b) of the Federal Rules of Civil Procedure and Local Rule 7.02(c), with directions to consider the same and to submit to the Court proposed findings of fact and a recommendation for disposition. On February 28, 2006, Magistrate Judge Kaull filed his Report and Recommendation wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections have been filed.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised in the Plaintiff's Complaint and in the Defendant's Motion for Summary Judgment were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the proposed Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaull's proposed Report and Recommendation be,

and hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The Defendant's Motion for Summary Judgment is **GRANTED**;
2. The Plaintiff's July 20, 2005 response to the Show Cause Order, to the extent that it could be deemed a Motion for Summary Judgment, is **DENIED**.
3. The decision for the Defendant is **AFFIRMED**; and
4. This civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

The Clerk of Court is directed to enter a separate judgment order and to send a copy of this Order to *pro se* Plaintiff and to counsel of record.

ENTER: March 22nd, 2006

/s/ Robert E. Maxwell
United States District Judge